

REMARKS

The Official Action of 4 January 2008 has been carefully considered and reconsideration of the application as amended is respectfully requested.

Claims 1-52 have been canceled and rewritten as new claims 53-75 to render them more definite without narrowing the scope thereof. The recitations in the new claims correspond with recitations in the original claims and/or draw support from the specification as filed at, for example, page 6, lines 1-29, the Examples as discussed below. The claims as rewritten are respectfully believed to be free of the rejections appearing at paragraphs 2 and 3 of the Official Action and are otherwise believed to be sufficiently definite to satisfy the dictates of 35 USC 112, second paragraph.

The claims as rewritten comprise both process and product claims. The Official Action of 13 September 2007 contained a requirement for restriction as between the process and product claims. Applicant provisionally elected the process claims with traverse in the Amendment filed 17 October 2007. In view of this traversal, the requirement for restriction should have been reconsidered in the Official Action of 4 January 2008 (cf. MPEP 821.01), but there is respectfully nothing in this Official Action to indicate any such reconsideration or that the requirement has been made final. Accordingly, Applicant again respectfully requests reconsideration of the restriction and, in particular, requests that both process and product claims be examined in the present application.

The claims were rejected under 35 USC 103(a) as allegedly being unpatentable over

Hsu '815 and Hsu '055 in view of Ericson et al. Applicant respectfully traverses this rejection.

The claims are directed to an animal feed supplement for promoting growth and a process for producing such animal feed supplement characterized in that it comprises a dry metal carboxylate-aminoate. As would be clear to one of skill in the art from the specification as filed, the dry metal carboxylate-aminoate as claimed comprises:

- * Carboxylate comprised by a mixture of a carboxylic acid (RCOOH), wherein R can be H (formates) or CH₃ (CH₂)₂ (butyrates) and a dry basic metal compound selected from Zn⁺² or Cu⁺². Therefore the carboxylate can be selected from: Zn⁺² butyrate, Zn⁺² formate, Cu⁺² butyrate or Cu⁺² formate.
- * Aminoate comprised by a mixture of an amino acid selected from glycine or methionine (its hydroxy analog) and a metal compound selected from Zn⁺² or Cu⁺². The aminoate can be selected from: Zn⁺²-Gly, Zn⁺²-Met, Cu⁺²-Gly or Cu⁺²-Met.
- * The carboxylate-aminoate compound can be formed by any combination of the above mentioned carboxylates and aminoates. The specification as filed provides examples of carboxylate-aminoate compounds: zinc formate-glycinate, zinc formate-methioninate, copper formate-methioninate and zinc formate-methioninate hydroxy analog.

As shown by the Examples in the specification, when the claimed complexes of

carboxylate-aminoate are administered to an animal, they achieve a better efficiency of metal absorption of metallic salt than the same amount of metallic salt administered with carboxylate or aminoate alone. See: Examples 12 and 13 on pages 34-46 for a comparison of broilers administered zinc or copper in the form of the claimed complexes (T-3) as compared with broilers administered zinc or copper in the form of zinc or copper sulfate (T-0), zinc or copper formate (T-1), or zinc or copper methioninate (T-2); Examples 14 and 15 on pages 47-55 for a similar comparison for piglets; Example 16 on pages 55-58 for a comparison of broilers administered zinc in the form of methionine hydroxy analog-zinc formate complex (T-2) as compared with broilers administered zinc in the form of zinc formate (T-1); and Example 17 on pages 58-62 for piglets administered zinc in the form of methionine hydroxy analog-zinc formate complex (T-2) as compared with piglets administered zinc in the form of zinc formate (T-1). Specifically, the results show that the efficiency of the claimed carboxylate-aminoate complex measured by live weight (LW), mean daily gain (MDG), mean daily consumption (MDC) and index of conversion (IC) is improved over the administration to the animals of ingredients of the complex separately.

In contrast, the cited references refer only to aminoates and do not show or suggest mixing carboxylates with aminoates to form a chemical complex which has absorption/bioavailability characteristics that are different than, and superior to, the characteristics of the individual components of the complex. Indeed, the Examiner has acknowledged the differences between the claimed invention and the prior art in paragraph 9 of the Official Action, but considers, **without citation of authority**, that those differences do not make the claimed invention patentable. However, in the absence of anything in the cited references that would show or suggest the formation of a complex with the improved

absorption characteristics **as claimed**, Applicants respectfully submit that the Examiner's conclusory statements cannot be considered to set forth even a *prima facie* case of obviousness for the claimed invention. See MPEP 2142 ("The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.").

In view of the above, Applicant respectfully submits that all rejections and objections of record have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,

CLIFFORD J. MASS
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NEW YORK 10023
REG. NO.30,086(212)708-1890